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Letter dated 31 December 2008 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, containing an account of the Committee's activities from 1 January to 31 December 2008 (see annex). The report, which was adopted by the Committee, is being submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

In this connection, I would appreciate it if the present letter and its annex were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) R. M. Marty M. **Natalegawa**
Chairman
Security Council Committee established pursuant to resolution 1533 (2004)
concerning the Democratic Republic of the Congo

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Annex

Report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

A. Introduction

1. The present report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo covers the period from 1 January to 31 December 2008.

2. For 2008, the Bureau of the Committee consisted of R. M. Marty Muliana Natalegawa (Indonesia) as Chairman, with the delegations of Costa Rica and Viet Nam serving as Vice-Chairmen.

B. Background

3. By paragraph 20 of its resolution 1493 (2003), the Security Council imposed an arms embargo on all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and Ituri, and on groups not party to the Global and All-Inclusive Agreement in the Democratic Republic of the Congo. The Council also provided for the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to report to the Council regularly on the position of the movements and armed groups and on information concerning arms supply and the presence of foreign military, especially by monitoring the use of landing strips in North and South Kivu and Ituri.

4. By its resolution 1533 (2004), the Security Council established the Committee, inter alia, (a) to seek information from States regarding implementation of the arms embargo; (b) to examine and take action on alleged violations; (c) to report to the Council on ways to strengthen the arms embargo; (d) to consider a list of those found to have violated the measures imposed by the Council in paragraph 20 of its resolution 1493 (2003) with a view to submitting recommendations to the Council for possible future measures; and (e) to receive notifications in advance from States made under paragraph 21 of resolution 1493 (2003) and to decide, if need be, upon any action to be taken.

5. By paragraph 10 of its resolution 1533 (2004), the Security Council requested the Secretary-General, in consultation with the Committee, to establish a Group of Experts to undertake a series of tasks related to the monitoring of the arms embargo, as set out in the resolution. The Group of Experts was re-established or extended for eight successive mandates pursuant to resolutions 1552 (2004), 1596 (2005), 1616 (2005), 1654 (2006), 1698 (2006), 1771 (2007), 1799 (2008) and 1807 (2008).

6. By its resolution 1596 (2005), the Security Council extended the arms embargo to any recipient in the territory of the Democratic Republic of the Congo, with exemptions including the army and police of the Democratic Republic of the Congo, under conditions set out in the resolution. The Council also imposed travel restrictions and an assets freeze on persons and entities acting in violation of the arms embargo. By the same resolution, the Council decided to extend the mandate of the Group of Experts, with the addition of a fifth finance expert and with a

broader mandate in connection with the measures set out in paragraphs 6, 10, 13 and 15 of the resolution.

7. By its resolution 1616 (2005), the Council renewed the arms embargo, travel restrictions and assets freeze until 31 July 2006. By its resolution 1649 (2005), the Council extended the scope of the travel restrictions and assets freeze to political and military leaders of foreign armed groups operating in the Democratic Republic of the Congo or Congolese militias receiving support from abroad that impede the participation of their combatants in disarmament, demobilization and reintegration processes, to take effect on 15 January 2006, unless the Secretary-General informed the Council that the process of disarmament of those foreign armed groups and Congolese militias operating in the Democratic Republic of the Congo was being completed.

8. By its resolution 1698 (2006), the Council renewed until 31 July 2007 the arms embargo as well as travel and financial restrictions on individuals designated by the Committee in accordance with the criteria set out in resolutions 1596 (2005) and 1649 (2005). In its resolution 1698 (2006), the Council extended the travel and financial measures to political and military leaders recruiting or using children in armed conflict, and to individuals committing serious violations of international law involving the targeting of children in situations of armed conflict. In addition to the tasks outlined in resolutions 1533 (2004), 1596 (2005) and 1649 (2005), the Council requested the Group of Experts, whose mandate was extended under resolution 1698 (2006) for a period expiring on 31 July 2007, to recommend feasible and effective measures the Council might impose to prevent the illegal exploitation of natural resources financing armed groups in the eastern part of the Democratic Republic of the Congo. In paragraph 8 of its resolution 1698 (2006), the Council also requested the Secretary-General to present before 15 February 2007, in close consultation with the Group of Experts, a report comprising an assessment of the potential economic, humanitarian and social impact on the population of the Democratic Republic of the Congo of the implementation of the possible measures referred to in paragraph 6 of the resolution.

9. By its resolution 1771 (2007), the Council decided to renew the measures on arms imposed under resolutions 1493 (2003) and 1596 (2005) for a period expiring on 15 February 2008. In connection with the arms embargo, the Council decided to renew the exemptions for units of the army and police of the Democratic Republic of the Congo, provided that conditions specified in paragraph 2 (a), (b) and (c) of the resolution were met. In addition, by paragraph 3 of its resolution 1771 (2007), the Council decided to authorize an exemption for technical training and assistance agreed to by the Government of the Democratic Republic of the Congo and intended solely for support of units of the Democratic Republic of the Congo army and police that were in the process of integration in the provinces of North and South Kivu and the Ituri district.

10. By paragraph 4 of its resolution 1771 (2007), the Council decided that the conditions specified in paragraph 4 of resolution 1596 (2005), as now applied to the Government of the Democratic Republic of the Congo, should apply to supplies of arms and related materiel as well as technical training and assistance which are consistent with the exemptions described in paragraph 9 of the resolution, and noted in this regard that States had an obligation to notify the Committee in advance of such supplies. The Council also decided to renew the measures on transport and

travel and finance in accordance with resolutions 1596 (2005), 1649 (2005) and 1698 (2006), and to review, no later than 15 February 2008, the measures concerning the arms embargo, transport, travel and financial bans, in the light of the consolidation of the security situation and the processes of integration of armed forces and reform of the national police in the Democratic Republic of the Congo.

11. By paragraph 1 of its resolution 1799 (2008), the Council decided to extend until 31 March 2008 the measures on arms imposed by paragraph 20 of resolution 1493 (2003) as amended and expanded by paragraph 1 of resolution 1596 (2005). By paragraph 4 of the same resolution, the Council decided to extend the mandate of the Group of Experts referred to in paragraph 9 of resolution 1771 (2007).

12. By paragraph 1 of its resolution 1807 (2008), the Council decided that the measures on arms and technical training would no longer apply to the Government of the Democratic Republic of the Congo, and that for a period ending on 31 December 2008, all States would take the necessary measures to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, and the provision of any assistance, advice or training related to military activities, including financing and financial assistance, to all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo. By paragraph 5, the Council reiterated the obligation of supplier States to notify the Committee of all shipments of arms and related materiel, as well as the provision of technical training and assistance related to military activities in the Democratic Republic of the Congo. By paragraph 13 (e), the Council extended the travel and financial measures to individuals operating in the Democratic Republic of the Congo and committing serious violations of international law involving the targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement.

C. Summary of the activities of the Committee

13. During the reporting period, the Committee held a total of six informal consultations.

14. At the informal consultations of the Committee on 8 February 2008, the Coordinator of the Group of Experts re-established pursuant to paragraph 9 of resolution 1771 (2007) presented the Group's final report to the Committee (S/2008/43), in accordance with paragraph 10 of the resolution, and the Committee held an exchange of views on the recommendations contained in the final report, including possible actions to be taken by the Committee. Pursuant to paragraph 10 (g) of resolution 1533 (2004), the Group also submitted a list of those found to have violated the arms embargo. As a result of the discussion, the Committee subsequently agreed to dispatch letters to a number of Member States, the World Bank, the World Customs Organization and the International Civil Aviation Organization. On 12 February 2008, the Chairman of the Committee briefed the Security Council in informal consultations on the report of the Group of Experts and on the discussion held by the Committee. On 8 February 2008, the Committee received a letter from the Permanent Representative of the Netherlands informing of the transfer to the detention facility in The Hague of Mathieu Ngudjolo Chui, included in the Committee's list of individuals and entities.

15. During its informal consultations held on 4 April 2008, the Committee considered the progress report of the Group of Experts extended pursuant to resolution 1799 (2008). In reaction to the progress report, the Committee conveyed the report in a letter addressed to the Under-Secretary-General for Peacekeeping Operations dated 25 April 2008, drawing the attention of MONUC, in the light of its arms embargo monitoring mandate pursuant to paragraph 2 (g) of resolution 1756 (2007), to routes in the eastern Democratic Republic of the Congo identified by the Group as potential routes used for arms trafficking, in contravention of the arms embargo.

16. Also pursuant to the progress report, the Committee addressed a letter to the Group of Experts dated 25 April 2008 drawing its attention to several issues relevant to the Group's mandate as amended by resolution 1807 (2008).

17. During its informal consultations held on 28 May 2008, the Committee held an exchange of views with the newly appointed members of the Group of Experts on the Democratic Republic of the Congo re-established pursuant to resolution 1807 (2008) concerning their programme of work.

18. Pursuant to the adoption of resolution 1807 (2008), on 9 July 2008 the Committee addressed a letter to the Permanent Representative of the Democratic Republic of the Congo highlighting the amendments introduced by the resolution and expressing its desire to work closely with the Government of the Democratic Republic of the Congo towards the full implementation of the arms embargo and targeted sanctions.

19. During its informal consultations on 14 July 2008, the Committee considered communications from the delegations of Uganda and the United Arab Emirates in connection with a request transmitted by Uganda in September 2007 for an exemption for the payment of extraordinary expenses from the frozen funds of a listed entity held by a Dubai-based company to a bank in Uganda. On 24 July 2008, the Chairman of the Committee informed the Permanent Representative of Uganda that the Committee had no objection to the request of Uganda for an exemption under paragraph 16 (b) of resolution 1596 (2005) for payment of the extraordinary expenses.

20. On 25 September 2008, the Chairman of the Committee addressed a letter to the Permanent Representative of the United Arab Emirates informing him that pursuant to information that had recently been brought to the Committee's attention by the Group of Experts on the Democratic Republic of the Congo, the Committee had requested that the United Arab Emirates authorities place the above-mentioned release of funds on hold. On 26 November 2008, the Vice-Chairman of the Committee addressed a letter to the Permanent Representative of Uganda, reiterating the Committee's request that the Bank of Uganda establish an escrow account for the implementation of the exemption to release funds frozen by the Dubai-based company to the bank in Uganda, and requesting the Bank of Uganda to convey the relevant details of the escrow account to the Dubai Multi Commodities Centre, and to convey to the Committee the confirmation of the release of funds to the escrow account.

21. During its informal consultations held on 13 August 2008, the Committee received a presentation by the Coordinator of the Group of Experts in connection with the Group's interim report pursuant to paragraph 18 (d) of resolution 1807

(2008). Pursuant to the interim report, the Committee addressed letters to the Permanent Representative of the Democratic Republic of the Congo and to the Special Representative of the Secretary-General for MONUC. In connection with the request of the Group of Experts, as contained in the Coordinator's letter dated 28 July 2008, that the interim report be kept confidential in the light of the sensitive nature of some of the information contained therein and of the ongoing status of some of the Group's inquiries, the Chairman of the Committee addressed a letter dated 19 August 2008 to the President of the Security Council, requesting on an exceptional basis that the report of the Group of Experts not be issued as a document of the Council until the publication of the final report of the Group pursuant to paragraph 18 (d) of resolution 1807 (2008). At the Security Council's informal consultations held on 26 August 2008, no objections were raised by Council members to the Chairman's proposal. The interim report of the Group of Experts was issued as a document of the Security Council on 12 December 2008 (S/2008/772).

22. During its informal consultations held on 10 December 2008, the Committee heard a presentation by the Group of Experts in connection with the Group's final report pursuant to paragraph 18 (d) of resolution 1807 (2008), and discussed the recommendations contained therein. The Committee also considered possible actions to be taken in implementation of the Group's recommendations and, on a preliminary basis, a confidential annex prepared in pursuance of paragraph 18 (f) of resolution 1807 (2008). The final report of the Group of Experts was issued as a document of the Security Council on 12 December 2008 (S/2008/773), and the Chairman briefed members on the Group's report in informal consultations of the Security Council on 17 December 2008.

23. In December 2007, the Committee received copies of three requests for de-listing, submitted by one individual and two entities, from the Focal Point for De-listing, in accordance with paragraph 6 (b) of the annex to resolution 1730 (2006). On 8 January 2008, the Chairman of the Committee addressed three separate letters to the Focal Point, informing the Focal Point that the process of consideration of the de-listing requests within the Committee had been completed and that each remained on the list of individuals and entities subject to the measures imposed by paragraphs 13 and 15 of resolution 1596 (2005).

24. In January 2008, the Committee received a letter from the Focal Point for De-listing informing the Committee that, in accordance with paragraph 6 (c) of the annex to resolution 1730 (2006), the Focal Point had provided all members of the Committee with a copy of a de-listing request submitted on behalf of Kisoni Kambale. On 24 April 2008, the Committee decided to de-list Mr. Kambale; the Committee also decided to maintain the assets freeze imposed on the entities associated with Mr. Kambale (see United Nations press release SC/9312). The list was updated accordingly, and the Chairman of the Committee informed the Focal Point of the Committee decision.

25. By his letter dated 15 April 2008, the Chairman informed the President of the Security Council that his letter dated 14 January 2008 highlighting the grave concern of the Working Group on Children and Armed Conflict regarding repeated violations of Council resolutions on children and armed conflict by persons named in the report of the Secretary-General (S/2007/391) had been brought to the attention of the Committee. This was done in accordance with resolution 1698

(2006), which extended the Committee's tasks to include the designation (for the application of the measures first imposed by paragraphs 13 to 16 of resolution 1596 (2005)) of political and military leaders recruiting or using children in armed conflict, as well as individuals committing serious violations of international law involving the targeting of children in situations of armed conflicts.

26. On 15 May 2008, the Permanent Representative of Rwanda transmitted a list of individuals to the Committee and requested that they be included in the Committee's consolidated travel ban and assets freeze list. In his letter dated 2 June 2008 addressed to the Permanent Representative of Rwanda, the Chairman indicated that the request was under consideration by the Committee. The Chairman also transmitted the letter dated 15 May of Rwanda to the Group of Experts for consideration.

27. On 26 November 2008, the Chairman transmitted a note to members of the Committee reporting that there was agreement to update the list on the basis of the information provided by the Group of Experts re-established pursuant to resolution 1771 (2007) and the Permanent Representative of the Netherlands. By the same note, the Chairman transmitted a letter dated 2 December 2008 from the Coordinator of the Group of Experts re-established pursuant to resolution 1807 (2008), containing information concerning listed individuals and entities. Pursuant to a silence procedure in connection with the note of the Chairman, the Committee agreed on 16 December 2008 to update the list.

28. During the reporting period, the Committee received seven notifications pursuant to paragraph 5 of resolution 1807 (2008). Pursuant to paragraph 15 (d) of resolution 1807 (2008), the Committee transmitted the notifications received during the reporting period to MONUC and the Government of the Democratic Republic of the Congo. The Committee also transmitted letters to Member States acknowledging their notifications and conveying appreciation for their continued efforts towards the full implementation of the sanctions regime and for providing the Committee with information relevant to its mandate.